

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD DRESSER and MARILYN
DRESSER as Next Friend of MIKHAIL
ROBERT DRESSER, a Minor Child,

Case Number 03-CV-10083-BC
Honorable David M. Lawson

Plaintiff,

v.

CRADLE OF HOPE ADOPTION
CENTER, INC., a Maryland corporation,

Defendant.

**CORRECTED ORDER GRANTING MOTION FOR COURT APPROVAL
OF SETTLEMENT AND DISTRIBUTION OF FUNDS, AND
DISMISSING CASE WITH PREJUDICE**

The order filed by this Court on September 13, 2006 granting the motion for court approval of settlement is hereby deleted and replaced by this order.

This matter is before the Court on the plaintiff's motion to approve a settlement. A hearing was held in open court on August 22, 2006, at which time the Court determined that a guardian *ad litem* should be appointed because the settlement distribution includes payment of \$47,155.76 to the minor plaintiff's parents, who are no longer parties to this suit. The minor plaintiff's parents "made a claim in the same action and will share in the settlement," Mich. Ct. R. 2.420(B)(2); therefore the Court appointed Peter C. Jensen as guardian *ad litem* to advise the Court on whether the settlement is fair and the distribution of the settlement funds appropriate. On September 11, 2006, Mr. Jensen filed his report, in which he concluded that Richard and Marilyn Dresser have expended in excess of \$58,309.50 for the benefit of the minor plaintiff.

Richard and Marilyn Dresser, husband and wife, initially filed this action for themselves and on behalf of Mikhail, their adopted, Russian-born son. The Dressers alleged that the defendant, the

adoption agency that arranged the foreign adoption, misrepresented the state of Mikhail's health before the Dressers committed to adopting him and withheld information about his health history that should have been disclosed. Mikhail subsequently developed medical conditions that have caused them great personal expense as a result of the necessary medical treatments and ensuing disabilities. On February 24, 2005, the parents' claims were dismissed. The Dressers also brought a claim on behalf of Mikhail alleging that the defendant was negligent in conveying his medical information so that it could be considered in determining subsequent medical treatment. This claim was permitted to proceed.

The parties negotiated settlement in the amount of \$100,000, most of which is to go to the parents in exchange for their right to appeal this Court's decision dismissing their claims. After considering the terms of the settlement and the recommendation of the guardian *ad litem*, the Court finds that the settlement is in the best interests of the minor child. The terms are reasonable to all interested parties.

Accordingly, it is **ORDERED** that the plaintiff's motion to approve the settlement [dkt # 175] is **GRANTED** and the settlement in the amount of \$100,000 is **APPROVED**. The following distribution is approved:

Mikhail Dresser, minor plaintiff	\$4,999.00
Richard and Marilyn Dresser (parents)	\$47,155.76
Attorney's Fees	\$26,077.37
Expenses of litigation	\$21,767.87

It is further **ORDERED** that the plaintiff's attorney shall forthwith pay the fee of the guardian ad litem in the amount of \$560, which is included in the distribution for expenses of litigation.

It is further **ORDERED** that the matter is dismissed with prejudice.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: September 15, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 15, 2006.

s/Felicia Moses
FELICIA M. MOSES